

FILED

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**CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS**

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

SHIU PAL SINGH,

Petitioner,

v.

ALBERTO R. GONZALES, Attorney
General,

Respondent.

No. 04-70801

Agency No. A78-189-632

MEMORANDUM^{*}

On Petition for Review of an Order of the
Board of Immigration Appeals

Submitted February 13, 2006^{**}

Before: FERNANDEZ, RYMER, and BYBEE, Circuit Judges.

Shiu Pal Singh is a native and citizen of Fiji. Singh petitions for review of the Board of Immigration Appeals' ("BIA") decision, which affirmed the Immigration Judge's ("IJ") order denying his application for asylum, withholding

^{*} This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by 9th Cir. R. 36-3.

^{**} This panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

of removal, and relief under the Convention Against Torture (“CAT”).

We lack jurisdiction to review both the BIA’s determination that Singh is statutorily ineligible for asylum based on the one-year time bar, and the BIA’s determination that Singh did not establish extraordinary circumstances or changed circumstances to excuse the one-year time bar. *See Ramadan v. Gonzales*, 427 F.3d 1218, 1221-22 (9th Cir. 2005).

We have jurisdiction pursuant to 8 U.S.C. § 1252 over the remaining claims. Where, as here, the BIA conducted a de novo review of the record and made an independent determination of whether relief is appropriate, this court reviews the decision of the BIA. *See Molina-Morales v. INS*, 237 F.3d 1048, 1050 (9th Cir. 2001). We review for substantial evidence the BIA’s decision to deny withholding of removal, *Hakeem v. INS*, 273 F.3d 812, 816 (9th Cir. 2001), and relief under CAT, *Zheng v. Ashcroft*, 332 F.3d 1186, 1193 (9th Cir. 2003).

Substantial evidence supports the denial of withholding of removal because Singh did not establish that it is more likely than not that he will be persecuted in Fiji. *See Hoxha v. Ashcroft*, 319 F.3d 1179, 1185 (9th Cir. 2003); *see also Ramadan*, 427 F.3d at 1222-23.

Substantial evidence also supports the BIA’s denial of CAT relief because

Singh did not establish that it is more likely than not that he will be tortured in Fiji. *See Malhi v. INS*, 336 F.3d 989, 993 (9th Cir. 2003).

The voluntary departure period was stayed, and that stay will expire upon issuance of the mandate. *See Desta v. Ashcroft*, 365 F.3d 741, 750 (9th Cir. 2004).

PETITION FOR REVIEW DISMISSED in part, and DENIED in part